

82-168-I

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February 24, 1983

Judith Bell, Esquire  
Susan Saggiotes, Esquire  
Office of Legislative and  
Legal Affairs  
Division of Welfare  
Hazen Drive  
Concord, New Hampshire 03301

Dear Ms. Bell and Ms. Saggiotes:

You have requested our opinion whether RSA 169-C:35, III enables the Division of Welfare to receive child abuse information regarding mutual clients from mental health centers which are under contract with the Division of Mental Health. Our opinion is that RSA 169-C in its entirety enables the receipt of such information and mental health centers and the Division of Mental Health are therefore required to provide this information to the Division of Welfare

The specific question you have raised involves an interpretation of RSA 169-C taken as a whole. The purpose of RSA 169-C (the Child Protection Act) is through mandatory reporting of suspected instances of child abuse or neglect to provide protection to children whose life, health, or welfare is endangered and to establish a judicial framework to protect the rights of all parties. Pursuant to RSA 169-C:29 those required to report are "any person having reason to suspect that a child has been abused or neglected, including any hospital personnel."

Furthermore, RSA 169-C:30 makes it clear that merely reporting the incident of abuse is not enough. Upon request of the Division of Welfare, a written report must be furnished. Such a report must contain information on the specific incident and any prior inquiries, including the names of those persons suspected of the abuse "and any other information that might



be helpful in establishing neglect or abuse that may be required by the Bureau." RSA 169-C:32 goes further by providing:

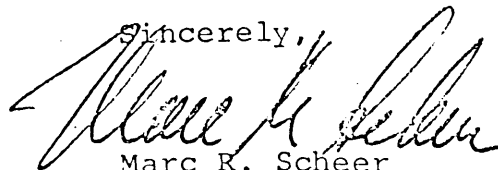
"The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client, shall not apply to proceedings instituted pursuant to this chapter and shall not constitute grounds for failure to report as required by this chapter." (emphasis added)

RSA 169-C:34 also provides that any agency of the state must assist the Bureau with its investigation by providing it with any information it requests.

The contract entered into between the Division of Mental Health and the mental health centers further obligates the mental health centers to provide abuse information. Provision b (Compliance by Contractor with Laws and Regulations) provides that the "contractor (mental health center) shall comply with all statutes, laws, regulations ... which shall impose any obligation or duty upon the contractor." Pursuant to this contract the centers must, therefore, furnish the information when requested.

For all the above reasons we conclude that the Division of Mental Health and mental health centers, pursuant to RSA 169-C, must share with the Department of Welfare any information necessary to conduct an investigation into suspected cases of abuse. This opinion does not alter the September 24, 1982 opinion issued to the Division of Mental Health relating to privileged nature of patient information, which specifically noted that RSA 169-C:32 abrogates the statutory privilege in cases of child abuse. See September 24, 1982 Opinion at 4. A copy of the September 24, 1982 opinion is attached for your reference.

Sincerely,



Marc R. Scheer  
Assistant Attorney General  
Division of Legal Counsel

MRS:ab  
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